

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TIFFANY TOTH, CARMEN ELECTRA, GEMMA  
LEE, JESSA HINTON, BROOKE TAYLOR,  
JESSE GOLDEN, LINA POSADA SHEENA LEE  
WEBER, HEATHER RAE YOUNG, RACHEL KOREN,  
SABELLA SHAKE and URSULA MAYES,

Case No. 15-cv-08028(NRB)

Plaintiffs,

v.

59 MURRAY ENTERPRISES, INC. d/b/a New York  
Dolls Gentlemen's Club, BARRY LIPSITZ,  
ANITA MICELI, JAY-JAY CABARET, INC. d/b/a  
Flashdancers Gentlemen's Club, MARSHA LIPSITZ  
and AAM HOLDING CORPORATION d/b/a  
Private Eyes Gentlemen's Club,

**DECLARATION OF  
PETER T. SHAPIRO**

Defendants.

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ANITA MICELI, JAY-JAY CABARET, INC.,  
59 MURRAY ENTERPRISES, INC., AAM HOLDING  
CORPORATION, BARRY LIPSITZ,  
and MARSHA LIPSITZ,

Third-Party Plaintiffs,

v.

INTERNET MANAGEMENT CORP. and  
MELANGE MEDIA GROUP LLC,

Third-Party Defendants.

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**PETER T. SHAPIRO**, an attorney duly admitted to practice before this Court, declares  
as follows under the penalties of perjury:

1. I am a partner of Lewis Brisbois Bisgaard & Smith LLP, attorneys for  
Defendants. I submit this declaration in support of Defendants' motion for an order pursuant to

Rule 56, F. R. Civ. P., granting summary judgment dismissing the Amended Complaint and each count thereof.

2. Also submitted herewith are the Rule 56.1 Statement of Undisputed Facts, the Declarations of Barry Lipsitz, Barry Albert Lipsitz, Anita Miceli, and Marsha Lipsitz, the Affidavits of Robert L. Klein, Joseph Hunter, and Paul Brown, and movants' Memorandum of Law.

3. Annexed as Exhibit 1 is Defendants' Answer to the Second Amended Complaint.

4. Plaintiffs voluntarily dismissed certain claims in their Second Amended Complaint; the remaining claims are for false endorsement under the Lanham Act, violation of New York Civil Rights Law § 51, violation of General Business Law § 349, and defamation.

5. Plaintiffs' counsel voluntarily dismissed the claims of Plaintiff Brooke Taylor as her photo was concededly not used by Defendants.

6. Plaintiffs Hinton, Mayes, Shake, and Koren were each served with notices to admit on July 14, 2017. Plaintiffs did not respond to any of these notices to admit. Since none of the contentions in the notices were specifically denied they are deemed admitted pursuant to Rule 36.

7. The transcript of Plaintiff Tiffany Toth's deposition in this case, conducted on April 13, 2017, is annexed hereto as Exhibit 2. The exhibits thereto are annexed as Exhibit 3.

8. The transcript of Plaintiff Gemma Lee Farrell's deposition in this case, conducted on April 14, 2017, is annexed hereto as Exhibit 4. The exhibits thereto are annexed as Exhibit 5.

9. Defendants served Farrell with a notice to admit on July 14, 2017. She did not respond. The notice to admit, with exhibits, is annexed as Exhibit 6.

10. The transcript of Plaintiff Heather Rae Young's deposition in this case, conducted on May 23, 2017, is annexed hereto as Exhibit 7. The exhibits thereto are annexed as Exhibit 8.

11. The transcript of Plaintiff Rachel Koren's deposition in this case, conducted on May 15, 2017, is annexed hereto as Exhibit 9. The exhibits thereto are annexed as Exhibit 10.

12. Koren was served with a notice to admit on July 14, 2017. She did not respond. The notice to admit, with exhibits, is annexed as Exhibit 11.

13. The transcript of Plaintiff Sabella Shake's deposition in this case, conducted on May 22, 2017, is annexed hereto as Exhibit 12. The exhibits thereto are annexed as Exhibit 13.

14. Shake was served with a notice to admit on July 14, 2017. She did not respond. The notice to admit, with exhibits, is annexed as Exhibit 14.

15. The transcript of Plaintiff Ursula Mayes' deposition in this case, conducted on May 22, 2017, is annexed hereto as Exhibit 15. The exhibits thereto are annexed as Exhibit 16.

16. Mayes was served with a notice to admit on July 14, 2017. She did not respond. The notice to admit, with exhibits, is annexed as Exhibit 17.

17. The transcript of Plaintiff Jessa Hinton's deposition in this case, conducted on April 12, 2017, is annexed hereto as Exhibit 18. The exhibits thereto are annexed as Exhibit 19.

18. Hinton was served with a notice to admit on July 14, 2017. She did not respond. The notice to admit, with exhibits, is annexed as Exhibit 20.

19. The transcript of Plaintiff Jessica Golden's deposition in this case, conducted on May 24, 2017, is annexed hereto as Exhibit 21. The exhibits thereto are annexed as Exhibit 22.

20. The transcript of Plaintiff Lina Posada's deposition in this case, conducted on May 23, 2017, is annexed hereto as Exhibit 23. The exhibits thereto are annexed as Exhibit 24.

21. The transcript of Plaintiff Sheena Lee Weber's deposition in this case, conducted on May 24, 2017, is annexed hereto as Exhibit 25. The exhibits thereto are annexed as Exhibit 26.

22. The transcript of Plaintiff Carmen Electra's (real name: Tara Leigh Patrick) deposition in this case, conducted on October 5, 2017, is annexed hereto as Exhibit 27. The exhibits thereto are annexed as Exhibit 28.

23. The tax returns for Plaintiff Electra's entity CE Licensing LLC for 2009-2012 are annexed as Exhibit 29.

24. The tax returns for Plaintiff Electra's entity Electra Blue Productions, Inc. for 2009-2012 are annexed as Exhibit 30.

25. Plaintiffs document production bates stamped: PLAINTIFF001511, PLAINTIFF001515, PLAINTIFF001519, PLAINTIFF001524, PLAINTIFF001527, PLAINTIFF001529, and PLAINTIFF001532 are annexed as Exhibit 31.

26. The grounds for the instant motion are set forth in the accompanying memorandum of law.

27. It is respectfully submitted that the Second Amended Complaint and each count thereof should be dismissed with prejudice because Plaintiff cannot raise a genuine factual dispute as to any of their claims for relief, and the Court should grant such other and further relief as is just and proper.

Dated: New York, New York  
June 29, 2018

/s/ Peter T. Shapiro  
Peter T. Shapiro